

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

<p>In re</p> <p>WASHINGTON MUTUAL, INC., <i>et al.</i>,¹</p> <p style="text-align: center;">Debtors.</p>	<p>Chapter 11</p> <p>Case No. 08-12229 (MFW)</p> <p>Jointly Administered</p> <p>Hrg. Date: June 29, 2011 @ 10:30 a.m. [REQUESTED]</p> <p>Obj. Date: At the Hearing [REQUESTED]</p>
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**EMERGENCY MOTION OF THE OFFICIAL COMMITTEE OF EQUITY
SECURITY HOLDERS FOR AN ORDER COMPELLING APPALOOSA,
CENTERBRIDGE, AND OWL CREEK TO PRODUCE DOCUMENTS**

The Official Committee of Equity Security Holders (the “Equity Committee”) of Washington Mutual, Inc. (“WMI” and, together with its chapter 11 debtor-affiliate, WMI Investment Corp., the “Debtors”) respectfully moves the Court on an emergent basis pursuant to Rule 2004 for an order compelling Appaloosa, Centerbridge, and Owl Creek to produce specified categories of documents.

The Equity Committee has a pending motion to compel Aurelius Capital Management L.P. to produce certain categories of documents related to its post-petition trading in WMI securities. The Court has scheduled argument on that motion for June 28th at 3:00 p.m. In this motion, the Equity Committee seeks the same relief with respect to the three other funds that are known, along with Aurelius, as the Settlement Note Holders (collectively, the “SNH”). The Equity Committee asks that the Court schedule this motion to compel to be heard at the same hearing. The Equity Committee has

¹ Debtors in these Chapter 11 cases and the last four digits of each Debtor’s federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395). The Debtors are located at 925 Fourth Avenue, Suite 2500, Seattle, Washington 98104.



conferred with representatives of Centerbridge, Owl Creek and Appaloosa in an effort to reach agreement with respect to the documents sought by this motion, but such efforts were unsuccessful.

The documents sought from the three additional funds in this motion are substantially the same as those sought from Aurelius and the Equity Committee's basis for seeking these documents is also the same. The Equity Committee had not yet taken the depositions of the three funds whose documents are sought here at the time the Equity Committee filed its motion against Aurelius. The Equity Committee took the depositions of these three funds on June 23rd and 24th. The testimony at those depositions demonstrated that these three funds should produce the same documents that the Equity Committee seeks from Aurelius for the same reasons, with the exception of one category records that only Aurelius had reason to maintain, as explained below.

The categories of documents sought in this motion are as follows.

1. Models Used In Evaluating Investments in WMI: Each of the four funds testified that it created and maintained models that calculated the potential recovery of various classes of WMI creditors and claimants based on assumptions about assets available to the estate and their value. Each also acknowledged that it had saved iterations of these models during the course of the bankruptcy. A few examples of these models were produced by one or two of the funds, but they were heavily redacted and did not include the assumptions about recovery, which are crucial to the Equity Committee's ability to explore the impact of the settlement negotiations on the SNH's analysis. If the SNH's analysts were adding information to their models based on the contents of the Debtors' or JPMC's settlement offers, that would demonstrate both the materiality of

those offers (since the SNH's were using the information to guide their own investment decisions), and the impact of those offers on the spread between projected recovery and market price.

No member of the SNH group has explained why production of these models would be particularly burdensome. They are inarguably core documents in any effort to identify the facts that these funds and their analysts considered material in making their investment decisions. They should be produced immediately.

2. Internal email and other correspondence relating the WMI investments:

The Equity Committee also seeks production of the funds internal correspondence concerning their investments in the debtors' securities. The SNH group argues that this request is overbroad and exceeds the scope of the discovery authorized by the Court when it granted the Equity Committee's Rule 2004 motion. Even if it were correct that this request exceeds the scope of the Court's February 11, 2011 Order [Dkt. #6725],² expansion of discovery at this point is justified by the evidence that emerged at the subsequent depositions. It is now clear that, from at least March 2009 onward, each of the four funds was in possession of non-public information concerning the settlement proposals made by the debtors and by JPMC, as well as information about the debtors' legal strategy and evaluation of its legal claims. It is also clear that, with some limited exceptions, the SNH did not restrict their ability to trade during the time when they possessed this information. At the depositions, the witnesses were generally not able to recall all of the details about all of the information that was discussed by the analysts and

² Attached hereto as "Exhibit 1" is a copy of this Court's February 11, 2011 Order along with a copy of the relevant pages of this Court's ruling issued at the February 8, 2011 hearing regarding the Equity Committee's Rule 2004 motion.

members of the investment teams when making investment decisions. Contemporaneous emails are likely to provide more concrete evidence about the content of these discussions and will provide the Equity Committee a fair opportunity to test the witnesses' statements on these issues, which bear directly on both knowledge and materiality of specific facts.

3. Communications between the SNH and any of their advisors or attorneys and the Debtors, Alvarez & Marsal, or Blackstone: The SNH produced only very limited examples of correspondence between the funds and the Debtors. The Equity Committee received a more substantial production of this material from the Debtors, but there is no assurance that even this production is complete. These are core documents in the investigation into improper trading and a full and complete production should be made.

The Court's February 2011 Order authorized discovery into the information that the funds received during the bankruptcy that might have impacted their trading. Correspondence between the funds and the debtors would be primary evidence on this question. Based on the Equity Committee's review of the documents it did receive, it appears that the SNH may have produced correspondence from their own files but not from files maintained by their counsel. If so, this omission should be corrected and the production supplemented. *See e.g., In re Ruppert*, 309 F.2d 97, 98 (6th Cir. 1962) ("It is a well settled principle that if the client may be compelled to produce documents in his possession then the attorney may be compelled to produce the same documents when they are in his custody.") (citing 8 Wigmore, Evidence, McNaughton Rev. 591, § 2307); *Arias v. City of Philadelphia*, 1998 WL 398252 *2 (E.D.Pa. 1998) ("if the attorney

possesses relevant, non-privileged information, that information ought to be discoverable just as it would be if possessed by a party or a non-party.”) (quoting *Arthur Treacher's Franchisee Litigation*, 92 F.R.D. 429 (E.D.Pa.1981)). Each of the SNH testified that their attorneys carried on the majority of the correspondence with the debtors on behalf of the funds. They claimed that their attorneys followed strict instructions not to disclose any information that was material and non-public to their clients, the SNH. In order to explore fully the information that the SNH obtained and used in their investment analysis, therefore, the Equity Committee must obtain discovery showing both what the SNH’s attorneys learned and the non-privileged communications between those attorneys and their clients, as discussed in the next section.

4. Non-privileged correspondence between the SNH and their attorneys:

Most or all of the emails between the SNH and their counsel produced to date have been redacted. The volume of such correspondence produced, even in redacted form, is so small that it cannot possibly be complete. Mindful of the time constraints in this situation, the Equity Committee has not requested a privilege log from the SNH. Nor has it sought to pierce the privilege. But the unusual nature of the relationship between the SNH and their attorneys in this case requires a more thorough and careful production of attorney client communications than might be warranted in other situations.

In order to preserve their ability to continue trading in WMI securities, the SNH asked their attorneys to perform a screening function and shield the funds themselves from any material, non-public information that the attorneys received. If rigorously followed, this arrangement required giving the attorneys an enormous amount of leeway to advocate for their clients’ interests without actually consulting with the clients

themselves on key terms. Like Aurelius, the other funds testified that the terms of the final GSA were negotiated by the debtors and the SNH's counsel with no substantive involvement by the SNH themselves.

In these circumstances, the record of communication between counsel and the client is crucial to determine what the client knew about the settlement negotiations and other aspects of the estate. For example, even if the SNH were not being informed minute by minute about the negotiations, it is possible that they had communicated to their counsel strict parameters within which negotiations could take place and so the notification that a settlement had been reached within those parameters would potentially communicate non-public information to the SNH. Information from the Debtors or JPMC that is being relayed from the SNH's attorneys to the SNH themselves is not privileged and should not be redacted. These documents are essential to the determination of the extent of the non-public information possessed by the SNH and they should be produced.

5. The Equity Committee does not seek records of internal screening from Appaloosa, Centerbridge, or Owl Creek: The Equity Committee's motion to compel production of documents by Aurelius also seeks documents Aurelius maintained concerning an internal ethical wall that the funds established during one sixty day period. None of the other funds testified that they ever erected such a wall and so the Equity Committee is not seeking such documents from the other funds.


Before filing this motion, the Equity Committee exchanged email correspondence with counsel for Appaloosa, Centerbridge, and Owl Creek seeking these documents. The SHN's counsel refused to produce the documents. They requested that copies of that

email exchange be attached as an exhibit to this motion. Attached hereto as "Exhibit 2" is a collection of that email correspondence between counsel for the Equity Committee and counsel for the SNHs, respectively.

WHEREFORE, the Equity Committee respectfully requests that the Court grant the relief requested by this motion, and for such other and further relief as it deems just and proper.

Dated: June 27, 2011
Wilmington, Delaware

ASHBY & GEDDES, P.A.


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Facsimile : (302) 654-2067

*Delaware Counsel to the Official Committee of
Equity Security Holders of Washington Mutual,
Inc., et al., and with respect to the Settlement Note
Holders, only as to Centerbridge Partners, L.P.,
Appaloosa Management L.P., and Owl Creek Asset
Management, L.P.*

-and-

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Conflicts Co-Counsel for the Official Committee of Equity Security Holders of Washington Mutual, Inc., et al., as to Aurelius Capital Management, L.P.

EXHIBIT 1

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹ Debtors.)))))))))))	Chapter 11 Case No. 08-12229 (MFW) (Jointly Administered) Related Docket No. 6567, 6645, 6652, 6655, 6657, 6660, 6683
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**ORDER GRANTING, IN PART, MOTION OF THE OFFICIAL COMMITTEE OF
EQUITY SECURITY HOLDERS FOR AN ORDER PURSUANT TO BANKRUPTCY
RULE 2004 AND LOCAL BANKRUPTCY RULE 2004-1 DIRECTING THE
EXAMINATION OF THE WASHINGTON MUTUAL, INC. SETTLEMENT NOTE
HOLDERS GROUP**

Upon the motion (the "Motion") of the Official Committee of Equity Security Holders, pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure and Local Rule 2004-1 of the United States Bankruptcy Court for the District of Delaware, for the entry of an order directing discovery from and the examination of the Settlement Note Holders Group²; and upon the objections to the Motion submitted by each of Appaloosa Management, L.P. (Dkt. No. 6645), Centerbridge Partners L.P. (Dkt. No. 6655), Owl Creek Asset Management, L.P. (Dkt. No. 6660), Aurelius Capital Management, LP (Dkt. No. 6652) and the WMI Noteholders Group (Dkt. No. 6657); and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B); and the Court having held a hearing on the Motion on February 8, 2011 at 10:30 a.m. (the "Hearing") at which the Court received argument both in favor of, and in opposition to, approval of the Motion; and upon consideration of the Motion; and due and proper notice of the Motion having been given, and for the reasons stated on the record at the Hearing and as limited by the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Washington Mutual, Inc. (3725) and WMI Investment Corp. (5396). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

² Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Motion.

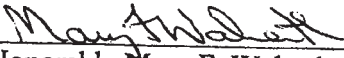
Court at the Hearing, it is hereby

ORDERED that the Motion is granted on a limited basis and only to the extent provided herein; and it is

ORDERED that, solely with respect to those topics identified by the Court as part of its ruling on the Motion as issued at the Hearing, and as limited by the Court at the Hearing, each of the Settlement Note Holders shall respond to the Equity Committee's written discovery requests, and produce all responsive documents, on or before February 22, 2011, or such other date as the Equity Committee and each of the Settlement Note Holders may agree, at the offices of Susman Godfrey LLP, 560 Lexington Ave., 15th Floor, New York, NY 10022; and it is

ORDERED that the Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order and any further proceedings with respect to the Motion.

DATED: Wilmington, Delaware
February 11, 2011



Honorable Mary F. Walrath
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

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In the Matters of: *

WASHINGTON MUTUAL, INC., et al., * Case No. 08-12229 (MFW)

Debtors. *

- - - - - *

BROADBILL INVESTMENT CORP., *

Plaintiff, *

v. * Adv. Pro. No. 10-50911 (MFW)

WASHINGTON MUTUAL, INC., *

Defendant. *

- - - - - *

MICHAEL WILLINGHAM and ESOPUS *

CREEK VALUE LP, *

Plaintiffs, *

v. * Adv. Pro. No. 10-51297 (MFW)

WASHINGTON MUTUAL, INC., *

Defendant. *

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WASHINGTON MUTUAL, INC. and *

WMI INVESTMENT CORP. *

Plaintiffs, *

v. * Adv. Pro. No. 10-53420 (MFW)

PETER J. AND CANDANCE R. ZAK *

LIVING TRUST OF 2001 U/D/O *

AUGUST 31, 2001, et al., *

Defendants. *

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United States Bankruptcy Court

824 North Market Street

Wilmington, Delaware

February 8, 2011

10:31 AM

B E F O R E:

HON. MARY F. WALRATH

U.S. BANKRUPTCY JUDGE

ECR OPERATOR: BRANDON MCCARTHY

1 that threshold created these securities issues, the debtors
2 would abandon the rights offering. And so, Your Honor, in the
3 plan that was filed today, the rights offering is not included.
4 So it is not because that there were, in our mind, Your Honor,
5 we were trying to focus or generate interest in the rights
6 offering to a certain level of PIERS holdings. Rather, it was
7 compliance with securities laws that we did it. And as a
8 result of that, Your Honor, we have now, in the modified plan,
9 taken that out.

10 Your Honor, whatever way you go today, Your Honor, we
11 only ask that we stick to May 2nd. Thank you.

12 THE COURT: Well, I am going to rule now. I am going
13 to grant the motion in a limited fashion. I do think the
14 requests are overly broad but I think that there's no basis not
15 to grant discovery from the -- and I'll use the term
16 generically -- the settlement noteholders. I think it is
17 relevant to the confirmation hearing that I will be holding.
18 It relates to both the interest issue and the valuation issue.

19 On the timing, I will require that the documents and
20 information -- or discovery be responded to within two weeks.
21 That was the basis on which I agreed to have the hearing today
22 and the parties have been aware that if I granted it, it would
23 be on that time frame.

24 I will limit the discovery, though, to what I think is
25 relevant. I think what is relevant is any post-bankruptcy

1 trading by these parties. Rule 2019 would require it anyway.
2 And I think that it is relevant to the issues raised and
3 identified by the Court as of concern in my opinion denying
4 confirmation.

5 I will require the production of any information
6 received by these parties, the settlement noteholders, during
7 settlement negotiations. That limits it temporally as well. I
8 will require the production of any information with respect to
9 their valuation of the reorganized debtor. It may not be a
10 value the debtor -- the Court agrees is the value of the
11 reorganized debtor but I think it is relevant to that issue. I
12 will not limit it to specific trades identified by Mr. Thoma or
13 anybody else. I think all trades post-petition should be
14 produced. But I will not allow the broad ranging inquiries
15 into what the settlement noteholders' plans are as to the --
16 for the reorganized debtor. I don't think that's relevant to
17 any confirmation issue.

18 Do I have to go through each interrogatory and -- I
19 think on one issue with respect to admissions, they can submit
20 whatever admissions they want. That's appropriate. You can
21 respond to them if you agree or don't agree. But again, they
22 should be limited to the areas that I have identified.

23 MR. HARRIS: Your Honor?

24 THE COURT: Yes.

25 MR. HARRIS: If I may, by way of clarification? When

1 Your Honor said that we'd limit it to information received by
2 the parties during settlement negotiations and that would be a
3 temporal limitation, is that a temporal limitation with respect
4 to your statement regarding post-bankruptcy trades so that the
5 temporal limitation would be any trading from and after the
6 point you first received material nonpublic information? Or is
7 it --

8 THE COURT: No.

9 MR. HARRIS: I didn't understand the comment regarding
10 to the temporal limitation and how it related to the comment
11 about all post-bankruptcy trading.

12 THE COURT: Post-bankruptcy trading should be
13 produced. Information regarding settlement negotiations is,
14 obviously, only since you got involved in settlement
15 negotiations.

16 MR. HARRIS: And, Your Honor, would you like us to
17 produce the details of the actual settlement negotiations or
18 the information we received from the company during the
19 settlement negotiations?

20 THE COURT: Only the information received during the
21 settlement negotiations. The settlement negotiations
22 themselves I don't think are relevant.

23 MR. HARRIS: Okay. Thank you for that clarification.

24 THE COURT: Yes. Thank you for asking.

25 MR. MAYER: Your Honor, I appreciate your limiting the

1 scope of discovery. I suspect there will be some further
2 negotiations on meet and confer. And we'll do what we can.
3 But if we determine that we simply can't do it then I'll have
4 to come back either to you or seek relief elsewhere. Two weeks
5 is a commitment that was not made by my client. And there may
6 be a lot of documents to review. And if it can't be done then
7 we'll come back and tell you or, if necessary, we'll have to
8 tell some other judge that it can't be done because if it can't
9 be done, it can't be done.

10 THE COURT: All right. I'll be available for a
11 teleconference if the parties wish.

12 MR. ARD: One other point of clarification, Your
13 Honor. I didn't hear you say anything about the ethical
14 trading wall.

15 THE COURT: Oh, I'm sorry.

16 MR. ARD: Yeah.

17 THE COURT: Thank you. Yes. I will require
18 information regarding what process was put in place by these
19 parties if any regarding the post-bankruptcy trading.

20 MR. ARD: I'm sorry, Your Honor. One more point. You
21 said that you may go to the interrogatories but you don't need
22 to. But they're to respond to the interrogatories as well
23 insofar as they pertain to the questions that you --

24 THE COURT: To those topics, yes.

25 MR. ARD: To the issues. Thank you, Your Honor.

1 THE COURT: All right. I'll look for a form of order
2 from the equity committee.

3 MR. ROSEN: Your Honor, that takes us to agenda item
4 number 33 which is also a motion by the equity committee.

5 MR. SARGENT: Good morning, Your Honor. Thank you.
6 Edgar Sargent, Susman Godfrey, also on behalf of the equity
7 committee. We have moved, under Section 158(d)(2)(A) for this
8 Court to certify a review by the Third Circuit the order
9 finding that the GSA is fair and reasonable under Rule 9019.

10 Your Honor, this motion is likely to determine whether
11 or not there will ever be appellate review of the seven billion
12 dollar settlement that is at the heart of this bankruptcy.
13 Postponing appeal until after a plan has been confirmed and all
14 related issues have been resolved risks foreclosing appeal
15 altogether. At that point, the issue may well be found to be
16 equitably moot. But appeal now of the discreet legal issue
17 presented in our moving papers can continue on a parallel track
18 with the plan proponents' efforts to present a plan that meets
19 the requirements of the Court's January 7th order.

20 The plan proponents are well aware of this dynamic.
21 They understand what's at stake in this motion. They want to
22 take advantage of the situation and try to squeeze the life out
23 of any possibility of an appeal of this order which explains
24 some of the contorted positions that the plan proponents have
25 taken. On the one hand, they insist that the order approving

EXHIBIT 2

From: Richard.Owens@lw.com
Sent: Friday, June 24, 2011 2:05 PM
To: barrysher@paulhastings.com; Seth Ard; mariadouvas@paulhastings.com
Cc: Edgar G. Sargent; Shannon.Nagle@friedfrank.com; Michael.DeLeeuw@friedfrank.com
Subject: RE: Appaloosa Documents
 Seth and Edgar –

I share the view that the EC's most recent request to Centerbridge exceeds the bounds Court's order and, indeed, calls for materials the Court explicitly ruled that we did not have to produce. Centerbridge will not voluntarily produce materials in response to your most recent request.

Best regards,

Richard D. Owens

LATHAM & WATKINS LLP
 885 Third Avenue
 New York, NY 10022-4834
 Direct Dial: +1.212.906.1396
 Fax: +1.212.751.4864
 Email: richard.owens@lw.com
<http://www.lw.com>

From: Sher, Barry [mailto:barrysher@paulhastings.com]
Sent: Friday, June 24, 2011 5:00 PM
To: Seth Ard; Douvas, Maria E.
Cc: Edgar G. Sargent; Nagle, Shannon Lowry; de Leeuw, Michael; Owens, Richard (NY)
Subject: RE: Appaloosa Documents

Seth:

This request is baseless and ridiculous. You just took a deposition conclusively establishing that Appaloosa never traded in WMI securities while in possession of material non-public information, and that its determinations on that issue were made in consultation with (i) internal counsel, (ii) external counsel at Fried Frank, and (iii) the debtor, which was obligated to make cleansing filings at the end of each confidentiality period, did so, and confirmed to Appaloosa that it had disclosed all MNPI. In fact, you now know from the deposition that Appaloosa went well beyond what is required, by voluntarily electing not to trade during periods when it had determined it did not possess MNPI in order to avoid after the fact, spurious allegations by out of the money constituencies like the EC is now making. This is the same thing the EC acknowledged previously, and that the Debtor disclosed to the Court - that the investigation had not established any improper trading or misconduct of any kind. Yet you now seek to expand discovery beyond any bounds in blatant disregard of your representations to the Court that the EC is not, and has never been, the cause of delay in these cases.

This is wholly inappropriate. Appaloosa produced its documents months ago. It produced 100% of what Judge Walrath ordered and after meeting and conferring with the EC. The EC has had months to review these documents and ask for additional documents consistent with the Judge's order. The new requests are incredibly broad and overly burdensome, go far beyond anything the Judge ordered, and are irrelevant to the issues at hand. It would take months to respond to these requests. They reveal what the EC's plan has been all along - regardless of the lack of merit to these allegations, to cause more and more delay. That conduct is anathema to the interests of WMI and its constituencies, and is particularly improper for a statutory committee. We request that this email be attached to any submission to the Court on this issue so the Court can see for itself the EC's misconduct.

From: Seth Ard [mailto:sard@susmangodfrey.com]
Sent: Thursday, June 23, 2011 11:27 PM
To: Sher, Barry; Douvas, Maria E.
Cc: Edgar G. Sargent
Subject: Appaloosa Documents

Barry,

As I mentioned at the deposition this afternoon, we are asking that Appaloosa produce unredacted copies of all surviving iterations of its waterfall models for Washington Mutual. We also asked for

clarification of the various terms used on Appaloosa's trading records. Finally, we request production of all internal Appaloosa correspondence, particularly email, discussing Washington Mutual investments; correspondence between Appaloosa and Freid Frank regarding Washington Mutual with only privileged contents redacted; and communications between Appaloosa or its outside counsel and the debtor, its lawyers, Alvarez, JPMC or FDIC.

Please confirm by the close of business tomorrow that Appaloosa will produce these documents to the Equity Committee no later than the close of business July 5th. If you have any questions tomorrow, please send me an email and let me know how to reach you since I may be in a deposition all day.

Regards,

Seth

Seth Ard
Susman Godfrey LLP
560 Lexington Avenue, 15th Floor
New York, NY 10022
212-471-8354
sard@susmangodfrey.com
Privileged and Confidential Communication

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Latham & Watkins LLP

From: Edgar G. Sargent
Sent: Thursday, June 23, 2011 7:15 PM
To: richard.owens@lw.com
Cc: Seth Ard; Rose Dolan
Subject: Centerbridge Documents

Richard,

As I mentioned at the deposition this afternoon, we are asking that Centerbridge produce unredacted copies of all surviving iterations of its investment model for Washington Mutual. We also request production of all internal Centerbridge correspondence, particularly email, discussing Washington Mutual investments; correspondence between Centerbridge and Freid Frank regarding Washington Mutual with only privileged contents redacted; and communications between Centerbridge or its outside counsel and the debtor, its lawyers, or Alvarez.

Please confirm by the close of business tomorrow that Centerbridge will produce these documents to the Equity Committee no later than the close of business July 5th. If you have any questions tomorrow, please send me an email and let me know how to reach you since I will be in a deposition all day.

Regards,

Edgar

Taylor, Greg

From: Edgar G. Sargent [esargent@SusmanGodfrey.com]
Sent: Monday, June 27, 2011 10:20 AM
To: Taylor, Greg; Seth Ard
Subject: Fwd: Owl Creek Documents

Begin forwarded message:

From: "Glickman, Alan" <Alan.Glickman@srz.com>
Date: June 26, 2011 3:26:29 PM EDT
To: "Edgar G. Sargent" <esargent@SusmanGodfrey.com>
Cc: "Seth Ard" <sard@susmangodfrey.com>, "Rose Dolan" <rdolan@SusmanGodfrey.com>, "Pfeiffer, Brian" <Brian.Pfeiffer@srz.com>, "Gussman, Bill" <Bill.Gussman@srz.com>, "Harris, Adam" <Adam.Harris@srz.com>, "Serranzana, Pamela" <Pamela.Serranzana@srz.com>, Shannon.Nagle@friedfrank.com, Michael.DeLeeuw@friedfrank.com, mariadouvas@paulhastings.com, barrysher@paulhastings.com, Mark.Broude@lw.com, Richard.Owens@lw.com
Subject: RE: Owl Creek Documents

Edgar -

We agree with the views expressed by counsel for Centerbridge and Appaloosa that the EC's belated request for still more discovery is entirely unwarranted. It's time to bring this costly fishing expedition to an end, not substantially expand it.

Best,

- Alan

From: Edgar G. Sargent [mailto:esargent@SusmanGodfrey.com]
Sent: Sunday, June 26, 2011 10:55 AM
To: Glickman, Alan
Cc: Seth Ard; Rose Dolan
Subject: Owl Creek Documents

Alan,

As you are probably aware, we have been asking the other Settling Noteholders to supplement their productions based on testimony at the depositions. Following Friday's deposition, we believe Owl Creek should do the same.

We are asking that Owl Creek produce unredacted copies of all surviving iterations of its investment model for Washington

Mutual. We also request production of all internal Owl Creek correspondence, particularly email, discussing Washington Mutual investments; correspondence between Owl Creek and its outside counsel regarding Washington Mutual with only privileged contents redacted; and communications between Owl Creek or its outside counsel and the debtor, its lawyers, or Alvarez.

Please confirm by 9am ET tomorrow if Owl Creek will produce these documents. I am sorry about the short fuse, but we are working with severe time constraints as you know. The Court has already scheduled argument on our motion to compel production of these documents from Aurelius for 3pm on the 28th and we believe it makes the most sense to have her address the requests from all four funds at that time, if possible. Accordingly, we intend to file a short motion asking to add the other funds to the Aurelius motion and seeking to have them heard together. We will omit Owl Creek from that motion if you confirm that your client will produce these documents before 9am. If, after we file, you notify us that Owl Creek is willing to produce some or all of these documents without an Order from the Court we will, of course, withdraw our request for the corresponding relief with regard to your client.

Regards,

Edgar Sargent

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re)	Chapter 11
WASHINGTON MUTUAL, INC., <i>et al.</i> , ¹)	Case No. 08-12229 (MFW)
Debtors.)	Jointly Administered
)	Related Dkt. No. _____
)	

**ORDER GRANTING MOTION OF THE OFFICIAL COMMITTEE OF
EQUITY SECURITY HOLDERS FOR AN ORDER COMPELLING
APPALOOSA, CENTERBRIDGE, AND OWL CREEK TO PRODUCE
DOCUMENTS**

Upon the motion (the "Motion") of the Official Committee of Equity Security Holders, pursuant to Rules 2004 and 9014 of the Federal Rules of Bankruptcy Procedure, Local Rule 2004-1 of the United States Bankruptcy Court for the District of Delaware for the entry of an order directing the production of documents from Owl Creek Asset Management, L.P. ("Owl Creek"); Appaloosa Management, L.P. ("Appaloosa"); Centerbridge Partners, LP ("Centerbridge"); and Aurelius Capital Management, LP ("Aurelius"); and this matter being a core proceeding pursuant to 28 U.S.C. §157(b)(2)(B); and upon consideration of the Motion; and due and proper notice of the Motion having been given, it is hereby

ORDERED that the Motion is granted; and it is further

¹ Debtors in these Chapter 11 cases and the last four digits of each Debtor's federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395). The Debtors are located at 925 Fourth Avenue, Suite 2500, Seattle, Washington 98104.

ORDERED that each of the Settlement Note Holders shall produce all documents in the following categories on or before July 8, 2011 at the offices of Susman Godfrey LLP, 560 Lexington Ave., 15th Floor, New York, NY 10022:

- i) Models Used In Evaluating Investments in WMI;
- ii) Internal email and other correspondence relating the WMI investments;
- iii) Communications between the SNH and any of their advisors or attorneys and the Debtors, Alvarez & Marsal, or Blackstone; and
- iv) Non-privileged correspondence between the SNH and their attorneys; and it is further

ORDERED that the Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order.

DATED: Wilmington, Delaware
June ____ , 2011

Honorable Mary F. Walrath
United States Bankruptcy Judge